

3522/06
 P.R. No. _____
 Presented by Shri M.T. Haider (4)
 dated 12/12/06

C.S. 101 -

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR
 CHHATTISGARH**

W.P. NO. 6528 /2006

PETITIONER

Plaintiff

Dadu S/o Shiv Prasad, caste Brahmin,
 aged 49 years, R/o Village Bagda, Tahsil
 Pratappur, Distt Sarguja (C.G.)

VERSUS

RESPONDENTS : 1.

Defendants

Vindhyavasini S/o Shiv Prasad,
 by caste Brahman, aged 70 years

2.(A)

Dev Kunwar @ Devmati, Wd/o
 Shanti, aged 40 years,

(B)

Bhuneshwar S/o Shanti, aged, about
 19 years, Both R/o Village Bagda,
 Tahsil Pratappur, Distt. Sarguja (C.G.).

3.

Aageshwar, S/o Shiv Prasad, Caste
 Brahman, aged 50 years

4.

Keshavvati, W/o Aageshwar caste
 Brahman, aged 40 years

5.

Bhaneshwari, Wd/o Krishna caste
 Brahman, aged 50 years

6.

Lakeshwar, S/o Krishna, caste
 Brahman, aged 22 years

7.

Deepeshwar, S/o Krishna, caste
 Brahman, aged 14 years,

Minor through natural guardian

Mother No.5 Bhaneshwari Wd/o
 Krishna

No. 1 & 3 to 7 are R/o Village Bagda,
 Tahsil Pratappur, Distt Sarguja (C.G.).

8.

Bade Munni @ Shashilata W/o

Gorelal, aged about 35 years, R/o

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 12/11/06
 CLEAR TO A. G. BILASPUR

(3)

(2)

Village Goverdhanpur, Tahsil
Wadrafnagar, Distt. Sarguja (C.G.)

9. Kusumlata W/o Chhotelal, aged 32 years, R/o Village Goverdhanpur, Tahsil Wadrafnagar, Distt. Sarguja (C.G.)
10. Guiya @ Sita W/o Sushil aged 30 years, R/o Village Maghla, Tahsil & Post Sonhat, Distt. Korea (C.G.)
11. Sona @ Gayatri W/o Jaikrishna, aged 28 years, R/o Village Barhole, P.S. Shrinagar, Tahsil Surajpur, Distt. Sarguja (C.G.)
12. Lale @ Sangeeta W/o Shanker Prasad, aged 26 years, R/o Village Udari, Post Bartikala, Tahsil wadrafnagar, Distt. Sarguja (C.G.)
13. Pushpa Devi W/o Samlati, aged 45 years, Occupation House wife,
- A. Rajeshwar Tiwari S/o Late Samilati Tiwari, aged 27 years,
- B. Shailendra Tiwari S/o Late Samilati Tiwari, aged 23 Years,
- C. Ku. Seema Tiwari D/o Late Samilati Tiwari, aged 16 years,
- D. Ku. Kiran Tiwari, D/o Late Samilati Tiwari, aged 13 years,
- E. Ku. Radha Tiwari D/o Late Samilati Tiwari, aged 8 years,
- No. C to E are minors and through natural guardian mother No. 13 Pushpa Devi W/o Late Samilati Tiwari, all R/o Village Bagda, Tahsil Pratappur, Distt. Sarguja (C.G.).
13. F. Nisha Pandey W/o Ajay Pandey D/o Late Samilati Tiwari, aged 19 years, R/o Village Tivaragudi, Tahsil Surajpur Distt Sarguja (C.G.).

(3)

14. State of Chhattisgarh
Through Collector Sarguja
Distt. Sarguja (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF
CONSTITUTION OF INDIA

(30) (31)

न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 6528 सन् 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	8.12.2006 Shri D.N.Prajapati, counsel for the petitioner. Heard on admission. By way of this writ petition, filed under Article 227 of Constitution of India, the petitioner has prayed for quashing the order dated 20.3.2006, passed by the Civil Judge Class-II, Pratappur, District-Sarguja, by which, the learned trial judge has dismissed his application filed under Order 7, Rule 14 of the Code of Civil Procedure. A perusal of the impugned order would show that by the said application, the plaintiff prayed for taking on record a letter dated 7.4.1978, said to have been written by defendant No.3 and also a certificate of the Gram Panchayat, dated 19.1.2001. The trial court has dismissed the application on the ground that the documents filed along with the application appear to be suspicious. Learned counsel for the petitioner submits that the trial Court was not justified in taking such view on the preliminary stage of filing of the document and by taking such a view, the Court below has completely lost sight of the provisions of Order 7, Rule 14 C.P.C. Order 7, Rule 14 relates to the provision of the documents on which, the plaintiff sues or relies. It provides that where the plaintiff sues upon the document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by	

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	him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint. Sub rule (2) provides that where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is. Further, sub rule (3) provides that a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. Sub rule (4) provides for a stage in the cross-examination, which says that nothing in this rule shall apply to document produced for the cross-examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory. A bare perusal of this provision would show that a Court trying a suit is always empowered to grant a leave to the plaintiff in appropriate cases to produce his document at a later stage when such an exigency arises, but it nowhere provide that at the time of admitting the document on record, the Court will look into the genuineness of the document. The correctness or genuineness of a document, filed in a suit by the plaintiff, either at the earlier stage or at a later stage, is a matter to be considered at the time of evidence or more later at the time of judgment, when an order/judgment is to be passed on the same.	

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आदेश पत्रक (पूर्वानुबद्ध)

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	By taking a view about the genuineness of a document on the preliminary stage of its filing, the trial Court has not acted in accordance with law. The impugned order deserves to be quashed. In the result, the petition is allowed. The impugned order is set aside. The documents are directed to be taken on record. Since the present order is being passed ex-parte, it would be open to the other side to assail this order on the appropriate grounds before this Court. This petition stands disposed of. Certified copy as per rules.	Sd/- Sunil Kumar Sinha Judge

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